

## POLICY REVIEW AND DEVELOPMENT PANEL REPORT

REPORT TO:	Audit Committee		
DATE:	12 November 2018		
TITLE:	Record Retention and Disposal Policy review		
TYPE OF REPORT:	Review		
PORTFOLIO(S):	Performance		
REPORT AUTHOR:	Ged Greaves, Senior Policy and Performance Officer		
OPEN/EXEMPT	Open	WILL BE SUBJECT TO A FUTURE CABINET REPORT:	No

### **REPORT SUMMARY/COVER PAGE**

PURPOSE OF REPORT/SUMMARY:
The council's record retention and disposal policy and strategy is due to be refreshed. This report introduces a draft framework and seeks members' comments. A final version will be presented to the committee in January 2019 to take forward to Cabinet in March 2019.
KEY ISSUES:
We are required by the Lord Chancellor's Code of Practice on the Management of Records issued under Section 46 of the Freedom of Information Act 2000 to have and to implement a records retention and disposal schedule.  The current policy was approved in January 2012 and changes in working practices and enacted legislation have overtaken the current policy.
OPTIONS CONSIDERED:
These are detailed in the report.
RECOMMENDATIONS:
Members are requested to consider the draft.
REASONS FOR RECOMMENDATIONS:
In order to ensure the Council meets its statutory obligations to ensure that it has record management arrangements in place.

### **Refresh of the Council's Records Retention and Disposal Policy**

#### **1. Background**

- 1.1 We are required by the Lord Chancellor's Code of Practice on the Management of Records issued under Section 46 of the Freedom of Information Act 2000 to have and to implement a records retention and disposal schedule.
- 1.2 The council's Records Retention and Disposal Policy has two components; the policy and a detailed schedule of records with related retention information.
- 1.3 It was approved by Council in January 2012 and given developments in working practices, digitization and legislation is due for revision.

## 2. Executive Summary

2.1 Outlines of changes to the current policy and schedule are set out below.

2.2 The Policy and Retention Schedule were previously one document but have been separated out to simplify updates to reflect changes in legislation, practice, job titles and record types and classifications.

### 2.3 Policy – outline of changes

Introduction	Content has been added to this section to reference the General Data Protection Regulation (GDPR) and the Data Protection Act and Freedom of Information Act.
Score and Purpose	Content has been added to this section to reference unstructured (e.g. emails) and structured systems (e.g. IDOX) to focus attention upon the environment of these types of record storage methods.  A list of related policies has also been added to inform the reader of the wider context of information governance at the council.
Retention and Disposal Protocol	Updated job title for Document Management Systems (DMS) Manager to Systems and Administration Manager.  Content added to: <ul style="list-style-type: none"> <li>describe how to dispose of electronic devices and removable media such as CDs, DVDs, USB sticks and need to contact ICT.</li> <li>Encourage use of a disposal log to provide an audit trail for disposed records, a template log and flowchart summarizing the process.</li> </ul>
Roles and Responsibilities	Content added to: <ul style="list-style-type: none"> <li>describe roles and responsibilities for members, Management Team, individuals, Eastlaw and with GDPR the recently created roles of Senior Information Risk Owner (and deputy), Information Asset Owners and Administrators.</li> <li>Highlight requirements for those contracted to provide services on our behalf and within partnership arrangements</li> <li>Clarify responsibilities when staff are working at home or agile working</li> <li>Clarifying responsibilities when sending data offsite.</li> </ul>
Legislative Framework	High level content added regarding: <ul style="list-style-type: none"> <li>Environmental Information Regulations</li> <li>General Data Protection Regulations</li> </ul>

### 2.4 Schedule – outline of changes

Internal Audit	Content added as previous schedule signposted to a separate document
Community Safety and Neighbourhood Nuisance	Content added as previous schedule signposted to a separate document
Safeguarding	Content added to reflect council responsibilities that did not exist when the previous schedule was prepared
Regeneration	Content added as the previous schedule did not reflect these

projects	important aspects of the council's operations
Information governance	Content added to reflect record types relating to Freedom of Information, Data Protection and Environmental Information Regulations along with new records relating to GDPR.
Housing	Content added to reflect housing responsibilities that did not exist when the previous schedule was created.
Disposal	New content to reflect disposal classification e.g. Dispose, Archive, Secure
Reformatted	The document was in a format that could not be easily sorted or filtered. Conversion to Excel format now enables the schedule to be filtered by department, service manager and disposal classification.
Article 30 Records of processing activities	Amendments were made to align with the retention periods set out in service area records of processing activity required by legislation.

## 2.5 Development of the Policy and Schedule

2.5.1 The review of the policy and schedule was undertaken by the Policy and Performance unit along with the Systems and Administration Manager and input from Eastlaw and the ICT Manager.

2.5.2 Latest records management guidance were reviewed along with recently developed policy and retention schedules developed by other councils such as Boston Borough Council, Cambridge City Council, Essex County Council, London Borough of Bromley, Lincolnshire County Council, North Hertfordshire District Council, North Norfolk District Council, Sevenoaks District Council, Southampton City Council and Staffordshire County Council.

## 3. Facts/Issues

3.1 The Records Retention and Disposal Policy is a key element of the council's governance framework and informs the requirements to keep particular records for prescribed time periods that are specified by legislation or recommended in guidance or codes of practice. Where there is an absence of legislation or guidance, service managers have used common practice across the sector as a guide to retention.

3.2 As an integral part of the council's approach to information governance, the updated policy clarifies the council's expected standards of behaviour in relation to officers and members who create, manage, handle and dispose of records and reflects the latest legislation including the General Data Protection Regulation.

3.3 The council's approach to information governance includes:

- Central Information Asset Register
- Data Protection Policy
- Data Protection Impact Assessments
- Data Quality Strategy
- FOI Publication Scheme
- ICT Asset Disposal Policy
- ICT Asset Management Policy
- ICT Computer Usage Policy
- ICT Email Policy
- ICT Internet Policy
- ICT Security Policy
- Information Risk Policy
- Privacy Notices
- Records of Processing Activity
- Records Retention and Disposal Policy
- Travelling Abroad with Council Devices Policy
- Use of Removable Media Policy
- Guidelines for Homeworking, 2008

- 3.4 This suite of policies and strategies provides the structure to govern how the council captures, creates, accesses, secures, manages, shares and disposes of its information both internally and externally. In line with changing best practice nationally, the council has updated its approach to information governance.
- 3.5 The Records Retention and Disposal Policy ensures users are aware of the council's various statutory duties to make arrangements for the safekeeping and eventual disposal of its records. The disposal schedule ensures that all users dispose of records to ensure compliance with statutory, contractual, evidential, legal, regulatory and Council requirements.
- 3.6 Policy refresh
- 3.6.1 A refreshed policy is attached at Appendix A and has been developed with input from Eastlaw and the Systems and Administration Manager.
- 3.6.2 The Records Retention and Disposal Policy defines the council's obligations and responsibilities in the handling and storage of data in relation to the legislation such as the Data Protection Act 2018, Freedom of Information Act 2000 and 2016 General Data Protection Regulation. The policy establishes and verifies retention periods for the council's data depending on the type of personal data and the purpose of the processing to ensure that the council:
- Creates and captures accurate, authentic and reliable records
  - Maintains records to meet the council's business needs
  - Disposes of records that are no longer required in an appropriate manner
  - Protects vital records
  - Shares information in accordance with guidelines and legislation
  - Conforms to any legal and statutory requirements
- 3.6.3 The 2016 General Data Protection Regulation came into force in May 2018 and introduced additional requirements around the retention of personal data compared to the previous Data Protection Act 1998.
- 3.7 Retention Schedule
- 3.7.1 A draft Schedule is attached at Appendix B and includes new content relating to:
- Internal Audit – previously signposted to a separate schedule
  - Community Safety and Neighbourhood Nuisance – previously signposted to a separate schedule
  - Safeguarding – to reflect responsibilities for the council that did not exist when the previous schedule was prepared
  - Regeneration projects – the previous schedule had little content covering these important aspects of the council's activities
  - Freedom of Information, Data Protection, Environmental Information Regulations and GDPR
  - Housing – to reflect new responsibilities
  - Recommended disposal methods
- 3.7.2 The Schedule format has been changed from Word/pdf to Excel to make it possible to sort/filter the content for easier reference.
- 3.7.3 Generally, personal data held by the council should only be retained for as long as necessary and where there is a basis for its processing. The retention periods will differ based on the type of data being processed, the purpose of the processing or

other factors. Issues to consider include whether any legal requirements apply to the retention of any particular data, for example employment, contracts, litigation, etc.

- 3.7.4 To date, the council has followed the retention periods recommended by the Local Government Classification Scheme, Retention Guidelines for Local Authorities and statute. Within the current schedule, some retention periods are specified as being “permanent” or “indefinite”. There are potential issues regarding these classifications, for example storage costs, and service managers are encouraged to reconsider their application within the schedule and the deputy SIRO and Systems and Administration Manager are working with a these services to review their practices.
- 3.7.5 With the introduction of GDPR, service managers have been requested to complete Article 30 Records of Processing Activity (ROPAs) describing the types of data held, basis and purpose of processing and retention periods. These need to be aligned with the corresponding content of the Records Retention and Disposal Schedule.
- 3.7.6 The schedule has been updated based upon the submitted ROPAs. The content of the ROPAs may also fairly dynamic and consequently the schedule may need to be updated throughout the year.
- 3.7.7 The intention is to decouple the policy from the schedule. That will enable the draft policy to move forward for approval and the schedule to become a management tool.

### 3.8 Training and awareness raising

- 3.8.1 Data Protection and Freedom of Information training is provided for elected members at induction.
- 3.8.2 E-learning modules are available for officers regarding Data Protection, Freedom of Information, ICT security and the General Data Protection Requirement.
- 3.8.3 Ongoing advice on the retention and disposal of records is available from the Data Protection Officer, Systems and Administration Manager and from the ICT Department. Additional advice and guidance is available from the Council’s Senior Information Risk Owner (SIRO) and deputy, Information Asset Owners and Information Asset Administrators.
- 3.8.4 Once approved the new policy will be deployed using briefings and internal communications to direct officers and members to the new policy and schedule.

### 3.9 Record disposal logs

- 3.9.1 Disposal refers to the actions taken at the end of a record’s lifecycle and will either be destruction, or permanent retention at Norfolk County Council’s archive service. A disposal log helps to demonstrate active records management.
- 3.9.2 In most cases the disposal of records should be done with reference to the records retention schedule. This schedule will provide a framework in which to base disposal decisions on. Only in exceptional circumstances should disposal take place without reference to an approved retention schedule.
- 3.9.3 Disposal logs are used alongside retention schedules to demonstrate that disposal actions have been implemented. A proposed template is included within the draft Policy. A template would be made available on Insite with service managers

responsible for ensuring ongoing completion for activities within their areas of responsibility.

### 3.10 Implementation issues

3.10.1 Service managers were consulted on the draft policy and retention schedule.

## **4.0 Corporate Priorities**

4.1 The disposal and retention of records is an aspect of corporate governance affecting all services.

## **5.0 Policy Implications**

5.1 The report seeks to refresh existing policy.

## **6.0 Financial Implications**

6.1 None.

## **7.0 Personnel Implications**

7.1 None.

## **8.0 Statutory Considerations**

8.1 The council is required by the Lord Chancellor's Code of Practice on the Management of Records issued under Section 46 of the Freedom of Information Act 2000 to have and to implement a records retention and disposal schedule.

## **9.0 Equality Opportunity Considerations**

9.1 None

## **10.0 Risk Management Implications**

10.1 The policy assist in the mitigation of existing risks in the corporate risk register such as due diligence and GDPR.

## **11.0 Recommendations**

11.1 Members are requested to consider the contents of the draft policy and make comment.

## **12.0 Declarations of Interest / Dispensations Granted**

12.1 None

## **Background Papers**